

NOV 19 2007

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARIA CRUZ TORRES RUEDA,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 07-72795

Agency No. A75-481-726

MEMORANDUM *

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted November 13, 2007 **

Before: McKEOWN, TALLMAN and CLIFTON, Circuit Judges.

The motion to proceed in forma pauperis is granted. The Clerk shall amend the docket to reflect this status.

This is a petition for review of a Board of Immigration Appeals' ("BIA") order denying petitioner's motion to reopen removal proceedings.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. Fed. R. App. P. 34(a)(2).

A motion to reopen must be filed no later than 90 days after the date on which the final administrative decision was rendered in the proceedings sought to be reopened. *See* 8 C.F.R. § 1003.2(c)(2). Thus, the BIA did not abuse its discretion when it denied petitioner's motion to reopen as untimely where the motion was filed over three years late.

Accordingly, respondent's motion for summary disposition is granted because the questions raised by this petition for review are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating standard). Accordingly, this petition for review is denied.

To the extent petitioner seeks to challenge the BIA's refusal to use its discretionary authority to reopen proceedings sua sponte, this court lacks jurisdiction to review that determination. *See Ekimian v. INS*, 303 F.3d 1153, 1159 (9th Cir. 2002).

All other pending motions are denied as moot. The temporary stay of removal confirmed by Ninth Circuit General Order 6.4(c) shall continue in effect until issuance of the mandate.

PETITION FOR REVIEW DENIED in part; DISMISSED in part.